

108TH CONGRESS
1ST SESSION

H. R. 786

To amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. CAMP (for himself, Mr. MATSUI, Mr. AKIN, Mr. BACA, Mr. BACHUS, Mr. BLUNT, Mr. BOEHNER, Mr. BONILLA, Mrs. BONO, Mr. BURGESS, Mr. CANNON, Mrs. CAPITO, Mr. CARDOZA, Mr. CARSON of Oklahoma, Mr. COLE, Mr. CRAMER, Mr. CRANE, Mr. CUNNINGHAM, Mr. DOOLITTLE, Ms. DUNN, Mrs. EMERSON, Mr. ENGLISH, Mr. FOLEY, Mr. FOSSELLA, Mr. GORDON, Mr. GRAVES, Mr. GREEN of Wisconsin, Ms. HARRIS, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HINCHEY, Mr. HOEKSTRA, Mr. ISAKSON, Mr. JOHN, Mr. KELLER, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mrs. MILLER of Michigan, Mr. NEY, Mr. OTTER, Mr. POMBO, Mr. QUINN, Mr. RADANOVICH, Mr. RANGEL, Mr. REYNOLDS, Mr. ROGERS of Michigan, Mr. SANDLIN, Mr. SCHROCK, Mr. SESSIONS, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SIMPSON, Mr. SULLIVAN, Mr. TANCREDI, Mr. THOMPSON of California, Mr. TOWNS, Mr. WELLER, Mr. WILSON of South Carolina, and Mr. MCHUGH) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. REPEAL OF OCCUPATIONAL TAXES RELATING**
2 **TO DISTILLED SPIRITS, WINE, AND BEER.**

3 (a) REPEAL OF OCCUPATIONAL TAXES.—

4 (1) IN GENERAL.—The following provisions of
5 part II of subchapter A of chapter 51 of the Internal
6 Revenue Code of 1986 (relating to occupational
7 taxes) are hereby repealed:

8 (A) Subpart A (relating to proprietors of
9 distilled spirits plants, bonded wine cellars,
10 etc.).

11 (B) Subpart B (relating to brewer).

12 (C) Subpart D (relating to wholesale deal-
13 ers) (other than sections 5114 and 5116).

14 (D) Subpart E (relating to retail dealers)
15 (other than section 5124).

16 (E) Subpart G (relating to general provi-
17 sions) (other than sections 5142, 5143, 5145,
18 and 5146).

19 (2) NONBEVERAGE DOMESTIC DRAWBACK.—
20 Section 5131 of such Code is amended by striking
21 “, on payment of a special tax per annum,”.

22 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—
23 Section 5276 of such Code is hereby repealed.

24 (b) CONFORMING AMENDMENTS.—

1 (1)(A) The heading for part II of subchapter A
2 of chapter 51 of such Code and the table of subparts
3 for such part are amended to read as follows:

4 **“PART II—MISCELLANEOUS PROVISIONS**

 “Subpart A. Manufacturers of stills.
 “Subpart B. Nonbeverage domestic drawback claimants.
 “Subpart C. Recordkeeping by dealers.
 “Subpart D. Other provisions.”

5 (B) The table of parts for such subchapter A
6 is amended by striking the item relating to part II
7 and inserting the following new item:

 “Part II. Miscellaneous provisions.”

8 (2) Subpart C of part II of such subchapter
9 (relating to manufacturers of stills) is redesignated
10 as subpart A.

11 (3)(A) Subpart F of such part II (relating to
12 nonbeverage domestic drawback claimants) is rededesignated as subpart B and sections 5131 through
13 5134 are redesignated as sections 5111 through
14 5114, respectively.

15 (B) The table of sections for such subpart B,
16 as so redesignated, is amended—

17 (i) by redesignating the items relating to
18 sections 5131 through 5134 as relating to sec-
19 tions 5111 through 5114, respectively, and
20

1 (ii) by striking “and rate of tax” in the
 2 item relating to section 5111, as so redesignated.
 3 nated.

4 (C) Section 5111 of such Code, as redesignated
 5 by subparagraph (A), is amended—

6 (i) by striking “**AND RATE OF TAX**” in
 7 the section heading,

8 (ii) by striking the subsection heading for
 9 subsection (a), and

10 (iii) by striking subsection (b).

11 (4) Part II of subchapter A of chapter 51 of
 12 such Code is amended by adding after subpart B, as
 13 redesignated by paragraph (3), the following new
 14 subpart:

15 **“Subpart C—Recordkeeping by Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of
 premises for inspection.”

16 (5)(A) Section 5114 of such Code (relating to
 17 records) is moved to subpart C of such part II and
 18 inserted after the table of sections for such subpart.

19 (B) Section 5114 of such Code is amended—

20 (i) by striking the section heading and in-
 21 serting the following new heading:

22 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

23 and

1 (ii) by redesignating subsection (c) as sub-
2 section (d) and by inserting after subsection (b)
3 the following new subsection:

4 “(c) WHOLESALE DEALERS.—For purposes of this
5 part—

6 “(1) WHOLESALE DEALER IN LIQUORS.—The
7 term ‘wholesale dealer in liquors’ means any dealer
8 (other than a wholesale dealer in beer) who sells, or
9 offers for sale, distilled spirits, wines, or beer, to an-
10 other dealer.

11 “(2) WHOLESALE DEALER IN BEER.—The term
12 ‘wholesale dealer in beer’ means any dealer who
13 sells, or offers for sale, beer, but not distilled spirits
14 or wines, to another dealer.

15 “(3) DEALER.—The term ‘dealer’ means any
16 person who sells, or offers for sale, any distilled spir-
17 its, wines, or beer.

18 “(4) PRESUMPTION IN CASE OF SALE OF 20
19 WINE GALLONS OR MORE.—The sale, or offer for
20 sale, of distilled spirits, wines, or beer, in quantities
21 of 20 wine gallons or more to the same person at
22 the same time, shall be presumptive evidence that
23 the person making such sale, or offer for sale, is en-
24 gaged in or carrying on the business of a wholesale
25 dealer in liquors or a wholesale dealer in beer, as the

case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.”

(C) Paragraph (3) of section 5121(d) of such Code, as so redesignated, is amended by striking “section 5146” and inserting “section 5123”.

(6)(A) Section 5124 of such Code (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 of such Code and inserted after section 5121.

(B) Section 5124 of such Code is amended—

(i) by striking the section heading and inserting the following new heading:

“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,

(ii) by striking “section 5146” in subsection (c) and inserting “section 5123”, and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

“(c) RETAIL DEALERS.—For purposes of this section—

“(1) RETAIL DEALER IN LIQUORS.—The term ‘retail dealer in liquors’ means any dealer (other than a retail dealer in beer) who sells, or offers for

1 sale, distilled spirits, wines, or beer, to any person
 2 other than a dealer.

3 “(2) RETAIL DEALER IN BEER.—The term ‘re-
 4 tail dealer in beer’ means any dealer who sells, or of-
 5 fers for sale, beer, but not distilled spirits or wines,
 6 to any person other than a dealer.

7 “(3) DEALER.—The term ‘dealer’ has the
 8 meaning given such term by section 5121(c)(3).”

9 (7) Section 5146 of such Code is moved to sub-
 10 part C of part II of subchapter A of chapter 51 of
 11 such Code, inserted after section 5122, and redesign-
 12 ated as section 5123.

13 (8) Part II of subchapter A of chapter 51 of
 14 such Code is amended by inserting after subpart C
 15 the following new subpart:

16 **“Subpart D—Other Provisions**

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”

17 (9) Section 5116 of such Code is moved to sub-
 18 part D of part II of subchapter A of chapter 51 of
 19 such Code, inserted after the table of sections, redesi-
 20 gnated as section 5131, and amended by inserting
 21 “(as defined in section 5121(c))” after “dealer” in
 22 subsection (a).

1 (10) Subpart D of part II of subchapter A of
 2 chapter 51 of such Code is amended by adding at
 3 the end thereof the following new section:

4 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

5 “(a) IN GENERAL.—Except as provided in regula-
 6 tions prescribed by the Secretary, it shall be unlawful for
 7 a dealer to purchase distilled spirits from any person other
 8 than a wholesale dealer in liquors who is required to keep
 9 the records prescribed by section 5121.

10 “(b) PENALTY AND FORFEITURE.—

**“For penalty and forfeiture provisions applicable
 to violations of subsection (a), see sections 5687 and
 7302.”**

11 (11) Subsection (b) of section 5002 of such
 12 Code is amended—

13 (A) by striking “section 5112(a)” and in-
 14 serting “section 5121(c)(3)”,

15 (B) by striking “section 5112” and insert-
 16 ing “section 5121(c)”,

17 (C) by striking “section 5122” and insert-
 18 ing “section 5122(c)”.

19 (12) Subparagraph (A) of section 5010(c)(2) of
 20 such Code is amended by striking “section 5134”
 21 and inserting “section 5114”.

22 (13) Subsection (d) of section 5052 of such
 23 Code is amended to read as follows:

1 “(d) BREWER.—For purposes of this chapter, the
2 term ‘brewer’ means any person who brews beer or pro-
3 duces beer for sale. Such term shall not include any person
4 who produces only beer exempt from tax under section
5 5053(e).”

6 (14) The text of section 5182 of such Code is
7 amended to read as follows:

8 “For provisions requiring recordkeeping by
9 wholesale liquor dealers, see section 5112, and by re-
10 tail liquor dealers, see section 5122.”

11 (15) Subsection (b) of section 5402 of such
12 Code is amended by striking “section 5092” and in-
13 serting “section 5052(d)”.

14 (16) Section 5671 of such Code is amended by
15 striking “or 5091”.

16 (17)(A) Part V of subchapter J of chapter 51
17 of such Code is hereby repealed.

18 (B) The table of parts for such subchapter J is
19 amended by striking the item relating to part V.

20 (18)(A) Sections 5142, 5143, and 5145 of such
21 Code are moved to subchapter D of chapter 52 of
22 such Code, inserted after section 5731, redesignated
23 as sections 5732, 5733, and 5734, respectively, and
24 amended by striking “this part” each place it ap-
25 pears and inserting “this subchapter”.

1 (B) Section 5732 of such Code, as redesignated
2 by subparagraph (A), is amended by striking “(ex-
3 cept the tax imposed by section 5131)” each place
4 it appears.

5 (C) Subsection (c) of section 5733 of such
6 Code, as redesignated by subparagraph (A), is
7 amended by striking paragraph (2) and by redesign-
8 ating paragraph (3) as paragraph (2).

9 (D) The table of sections for subchapter D of
10 chapter 52 of such Code is amended by adding at
11 the end thereof the following:

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”

12 (E) Section 5731 of such Code is amended by
13 striking subsection (c) and by redesignating sub-
14 section (d) as subsection (c).

15 (19) Subsection (c) of section 6071 of such
16 Code is amended by striking “section 5142” and in-
17 serting “section 5732”.

18 (20) Paragraph (1) of section 7652(g) of such
19 Code is amended—

20 (A) by striking “subpart F” and inserting
21 “subpart B”, and

22 (B) by striking “section 5131(a)” and in-
23 serting “section 5111(a)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act, but shall not apply to taxes imposed for peri-
4 ods before such date.

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